



H.R. 505 – Native Hawaiian Government Reorganization Act of 2007

EXECUTIVE SUMMARY

H.R. 505 was introduced by Rep. Neil Abercrombie (D-HI) and was ordered reported as amended by the Committee on Natural Resources, by voice vote, on October 18, 2007. The bill is expected to be considered on the floor on October 24, 2007.

This legislation provides a process for Native Hawaiians to organize a governing body to represent their interests with the State of Hawaii and the Federal government. It also reaffirms the special political and legal relationship between the United States and the Native Hawaiians.

H.R. 505 also establishes the United States Office for Native Hawaiian Relations within the Department of the Interior, as well as the Native Hawaiian Interagency Coordinating Group.

CBO estimates that implementing H.R. 505 would cost about \$1 million per year over the 2008-2010 period and less than \$500,000 in each subsequent year, assuming the appropriation of the necessary funds.

The Administration has threatened to veto H.R. 505 in its current form because “the Administration believes that tribal recognition is inappropriate and unwise for Native Hawaiians and would raise serious constitutional concerns.”

FLOOR SITUATION

H.R. 505 is being considered on the floor pursuant to a structured rule. The rule:

- Waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI.
- Provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources.
- Waives all points of order against provisions of the bill. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).
- Makes in order only the amendment printed in the Rules Committee report if offered by Rep. Flake or his designee.

- Provides that the amendment made in order shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for division of the question in the House.
- Waives all points of order against the amendments printed in the report except for those arising under clause 9 or 10 of rule XXI.
- Provides one motion to recommit H.R. 505 with or without instructions.

H.R. 505 was introduced by Representative Neil Abercrombie (D-HI) on January 17, 2007. The bill was ordered to be reported as amended from the Committee on Natural Resources, by voice vote, on October 18, 2007.

H.R. 505 is expected to be considered on the floor on October 24, 2007.

BACKGROUND

Congress adopted the Joint Resolution for Annexing the Hawaiian Islands to the United States in 1898. After Hawaii became a territory, Congress enacted the Hawaiian Homes Commission Act in 1920 which set aside 203,500 acres for Native Hawaiians.

Hawaii was admitted to the United States in 1959.

In 1993, Congress passed the “Apology Resolution” (P.L. 103-150) which acknowledged the 100th anniversary of the overthrow of the Kingdom of Hawaii and offered an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.

On February 23, 2000, the United States Supreme Court issued a 7 to 2 ruling in the case of *Rice v. Cayetano*. The Supreme Court decided that the state of Hawaii’s practice of allowing only Native Hawaiians to elect trustees to the Office of Hawaiian Affairs violated the 15th amendment to the Constitution because it restricted the right to vote based on race.

The ruling on this case has sparked other legal challenges including *Arakaki v. Lingle*. On September 1, 2005, the U.S. Court of Appeals for the Ninth Circuit ruled that Hawaiian taxpayers could contest the use of state funds to provide services to Native Hawaiians under a variety of race specific programs.

On March 28, 2007, the House of Representatives passed the Hawaiian Homeownership Act (H.R. 835) by a vote of 272 to 150 ([Roll Call Vote No. 205](#)). H.R. 835 reauthorizes, for 5 years, Title VIII of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). The bill also grants access to 2 loan guarantee programs for Native Hawaiians. In addition, The Title VI loan guarantee program (Federal Guarantees for the Financing of Tribal Housing Activities) of NAHASDA is reauthorized through 2012 and, as amended by H.R. 835, allows Department of Hawaiian Homes and Land to participate in this program.

The Senate failed to invoke cloture on the Native Hawaiian Government Reorganization Act of 2005 (S. 147) during the 109th Congress.

SUMMARY

H.R. 505 provides a process for the organization of a single governing entity to represent the Native Hawaiians with the State of Hawaii and the Federal government. It also reaffirms the “special political and legal relationship” between the United States and Native Hawaiian governing entity.

**Note: “Special political and legal relationship” is the type of relationship the United States has with many of the federally recognized Indian tribes.*

Under this legislation, Native Hawaiians are defined as individuals who are direct lineal descendants of the native people who inhabited the island on or before January 1, 1893, or an individual who is a Native Hawaiian as defined by the Hawaiian Homes Commission Act and who qualified for the program in 1921.

**Note: Under the Hawaiian Homes Commission Act, Native Hawaiians are individuals having at least one-half blood of the races inhabiting the islands prior to 1778 .*

This legislation establishes a nine member commission that is charged with certifying that adult members of the Native Hawaiian community meet the definition of Native Hawaiian before including them on a roll of Native Hawaiians that will participate in the reorganization of the governing entity.

**Note: This legislation would apply to all Native Hawaiians regardless of where they reside.*

H.R. 505 establishes the United States Office for Native Hawaiian Relations within the Department of the Interior, as well as the Native Hawaiian Interagency Coordinating Group.

In addition, H.R. 505 prohibits Native Hawaiians from participating in any Indian program or service, but continues the benefits and services currently provided to Native Hawaiians by law. In accordance with the Indian Gaming Regulatory Act, Native Hawaiians are prohibited from conducting gaming activities.

H.R. 505 allows for the Native Hawaiian governing entity to negotiate with the state and Federal government regarding matters such as the transfer of lands and natural resources and civil and criminal jurisdiction.

AMENDMENTS

(Below is the summary of the amendment that was made in order by the Rules Committee and may be offered on the floor of the House of Representatives)

- 1) Rep. Flake (R-AZ): Amendment states that nothing in the Act shall relieve any sovereign entity, including a Native Hawaiian governing entity, from complying with the equal protection clause of the 14th amendment to the United States Constitution.

COST

“CBO estimates that implementing H.R. 505 would cost about \$1 million per year over the 2008-2010 period and less than \$500,000 in each subsequent year, assuming the appropriation of the necessary funds.” [CBO Cost Estimate](#)

ADDITIONAL VIEWS

The Administration issued a veto threat of this bill in its current form. “Given the substantial historical and cultural differences between Native Hawaiians as a group and members of federally recognized Indian tribes, the Administration believes that tribal recognition is inappropriate and unwise for Native Hawaiians and would raise serious constitutional concerns.” ([Statement on Administration Policy: H.R. 505](#), 10/22/2007)

STAFF CONTACT

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